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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Miscellaneous Appeal (C) No.1052 of 2007

Appellants Claimants

1. Smt. Urmila Tiwari,
   W/o Late Gajendra Prasad,
   Aged about 31 years.

2. Harish Tiwari
   S/o Late Gajendra Prasad
   Aged about 6 years

3. Niraj Tiwari
   S/o Late Gajendra Prasad
   Aged about 4 years

4. Smt. Rukhmani Tiwari
   W/o Late Dwarika Prasad,
   Aged about 65 years,
   All Resident of Village Jogi Gufa
   P.O. Litia, P.S. Bori, Tehsil Damdha,
   District Durg (C.G.)

versus

Respondents (Non-applicants)

1. Moolchand
   S/o Ramji Kewat,
   Aged about Not Known
   R/o Village & P.S. Poolgaon,
   Tehsil and District Durg (C.G.)

2. Baljeet Singh S/o Kulwant Singh
   Aged about Not Known
   R/o Village Saitrabadi, Durg,
   P.S. Mohan Nagar,
   Tehsil & District Durg (C.G.)

3. The New India Assurance Co. Ltd.,
   Division Office, Thakkar Chamber, In
   front of Project Automobile, G.E. Road,
   Power House, Bhilai, District Durg
   (C.G.)

Memorandum of appeal under Section 173 of the Motor Vehicles Act.

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Present : Shri Ashok Dixit with Shri H.P. Agrawal, counsel for the appellants.
Shri N. K. Agrawal, Senior Advocate with Shri Deepak Gupta, counsel for the respondent No.3/insurance Company.
Shri K. L. Daswani, Divisional Manager, New India Assurance Company Limited is also present in person.

ORAL ORDER
(Passed on 14th September, 2007)

Heard.

(2) Being aggrieved by the impugned award dated 02-05-2007 passed by the 9th Additional Motor Accidents Claims Tribunal, F.T.C., Durg (henceforth 'the MACT') in Claim Case No.52/2006, whereby a sum of Rs.3,72,300/- has been awarded as compensation in a death case, the appellant/claimant have preferred this appeal for enhancement of the compensation.

(3) Brief facts are that one Gajendra Prasad died as a result of motor vehicle accident which occurred on 26-05-2006. The MACT assessed the daily income of the deceased at Rs.100/- and taking working days per month at 26 assessed loss of monthly dependency at Rs.2,600/- and awarded compensation of Rs.3,72,300/- under the following heads:-

S.No.	Particulars	Amount
1.	Towards loss of dependency	Rs. 3,32,800/-
2.	Towards Loss of consortium	Rs. 5,000/-
3.	Towards Loss of Estate	Rs. 2,500/-
4.	Towards Loss of love and affection (Cumulative)	Rs. 30,000/-
5.	Towards Funeral Expenses	Rs. 2,000/-
	TOTAL	**Rs.3,72,300/-**

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(4) The only point urged by learned counsel for the appellant in this appeal is that after taking daily income of the deceased at Rs.100/-, the MACT ought to have assessed his monthly income at Rs.3,000/- instead of Rs.2,600/-. No other point was urged.

(5) On the other hand, Shri N. K. Agrawal, Senior Advocate for the respondent No.3/insurance Company argued in support of the impugned award.

(6) Having considered the rival submissions, I have perused the record. The deceased was working as a Accountant in Brick Clan. In this view of the matter, once his daily income was assessed at Rs.100/-, the MACT ought to have assessed loss of monthly dependency at Rs.3,000/- and not at Rs.2600/-. In this view of the matter, taking monthly income of the deceased at Rs.3,000/- and deducting one third therefrom towards personal expenses and applying multiplier of 16, loss of dependency is assessed at Rs.3,84,000/-(2000x12x16) instead of Rs.3,32,800/-. The amount awarded by the MACT under the conventional heads has not been assailed. Therefore, total compensation payable is assessed at Rs.4,23,500/- (Rs.3,84,000/-+2,500+5,000+30,000+2,000).

(7) In the result, the appeal is allowed. The compensation awarded by the MACT i.e., Rs.3,72,300/- is enhanced to Rs.4,23,500/-. After adjusting the amount of compensation already deposited by the insurance company before the MACT, the remaining amount of compensation shall be deposited with the M.A.C.T. within two months from today, failing which, the insurance company shall also be liable to pay interest at the rate of 8.5% per annum from the date of application till realisation on the said amount.

(8) A copy of this order along with record be sent to the M.A.C.T. forthwith. The M.A.C.T. shall on deposit of compensation ensure:

(A) that the claimant/appellants are noticed about the award and to appear before the M.A.C.T., in person along with their pass book of an account in a nationalized bank,

(B) that the pass books of the claimants are accompanied by the photograph and are duly verified by the bank and the same is also verified by the M.A.C.T. before issuance of cheque,

(C) that a direction is issued to the concerned bank not to release the amount in favour of any person, other than the claimants unless ordered by the M.A.C.T.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Tumane